FINS & FEATHERS GAME FARM EXPANSION

DECISION DOCUMENT JULY 21, 1998

PROPOSED GAME FARM EXPANSION APPLICATION

On March 2, 1998 Montana Fish, Wildlife & Parks (FWP) received an application from Martyn and Linda Boehm to expand and modify animal numbers at their licensed game farm referred to as the Fins & Feathers Game Farm. The applicants propose to expand the existing 20-acre game farm to 27 acres and to increase the number of elk to a maximum of 60 animals. The existing quarantine and handling facilities would be used for the expanded game farm.

THE MONTANA ENVIRONMENTAL POLICY ACT PROCESS (MEPA)

Pursuant to MEPA, FWP is required to assess the impacts of the proposed action to the human environment. FWP completed a Draft Environmental Assessment of the proposed expansion on June 12, 1998. During this process, it was determined that a full Environmental Impact statement would not be required. The Draft EA was distributed to the Montana Environmental Quality Council, Montana Department of Environmental Quality, Montana Historical Society, Montana State Library, Montana Environmental Information Center, Montana River Action Network, Montana Department of Livestock, state and local libraries, Montana Wildlife Federation, Flathead County Commissioners, Flathead County legislative representatives for the proposed game farm area, Flathead Wildlife, and other interested individuals.

The public comment period began on June 12, 1998 and closed on July 3, 1998. No public hearing was held.

ISSUES OF CONCERN IN THE EA

No significant impacts which could not be mitigated were identified in this Draft EA. The Final EA for the proposed Game Farm Expansion contains a summary of the Proposed Action, a description of the affected environment, and potential consequences of the Proposed Action. The Final EA recommends mitigation measures to reduce impacts to soils, water quality, air quality, noise, other wildlife, and cultural resources. A new stipulation requiring the reporting of ingress of wild game animals or egress of domestic elk immediately to FWP was proposed.

SUMMARY OF PUBLIC RESPONSES

Montana Fish, Wildlife & Parks received three written comments to the Draft EA between June 12 and July 3, 1998. Substantive comments and questions are included in the attached Final EA. The public did not raise any new issues.

THE DECISION AND STIPULATIONS

After reviewing the application, the Draft EA, and public comments, I approve the issuing of a game farm license expanding the Fins & Feathers Game farm to 27 acres for no more than 60 animals with the following stipulation described in both the Draft and Final EA's.

Roents

Report the ingress of any wild game animals or egress of domestic elk to FWP immediately. The report must contain the probable reason why or how ingress/egress was achieved.

The purpose of this stipulation is to reduce the potential risk of significant impacts to native wildlife populations associated with the any contact of domestic elk with native game animals or their predators.

Daniel P. Vincent Regional Supervisor

Date

Martyn & Linda Boehm

Fins & Feathers Game Farm Expansion

Date

FINS AND FEATHERS GAME FARM EXPANSION APPLICATION FINAL ENVIRONMENTAL ASSESSMENT

MONTANA ENVIRONMENTAL POLICY ACT (MEPA) PROCESS

Montana Fish, Wildlife & Parks (FWP) is required to perform an environmental analysis in accordance with MEPA for "each proposal for projects, programs, legislation, and other major actions of state government significantly affecting the quality of the human environment" [Administrative Rules of Montana (ARM) 12.2.430]. FWP prepares environmental assessments (EA) to determine whether a project would have a significant effect on the environment. If FWP determines that a project will have a significant impact that cannot be mitigated to a minor impact, the agency will prepare a more detailed environmental impact statement (EIS) before making a decision. If the agency determines that a proposed project will not have a significant impact, or that the impact can be mitigated to minor or none, the agency may make its licensing decision based upon the results of the EA and criteria established under Montana game farm statute Montana Code Annotated (MCA) Title 87, Chapter 4, Part 4.

Mitigation measures may be considered in FWP's analysis as a means to reduce the impact(s) of a game farm to a level below significance. FWP may also recommend mitigation measures to reduce impacts that are considered minor.

The FWP prepared a Draft EA for the proposed Fins and Feathers Game Farm Expansion which identified no significant impacts from the Proposed Action that could not be mitigated. The Draft EA was released for public review and comment June 12, 1998. Public comments were accepted through July 3, 1998. The Draft EA, as modified herein, is hereby approved as the Final EA. This Final EA for the proposed Fins and Feathers Game Farm Expansion contains a summary of the Proposed Action, a description of the affected environment, and potential consequences of the Proposed Action, all of which are described in additional detail in the Draft EA which is adopted in this Final EA. This document also describes mitigation measures, includes public comments, and provides the conclusion of the EA. The preferred alternative is the Proposed Action with one required stipulation and several recommended mitigation measures.

PROPOSED GAME FARM APPLICATION

The FWP received a completed application March 2, 1998 to expand the existing 20 acre Fins and Feathers Game Farm to a total of 27 acres. On April 2, 1998, FWP accepted the application as complete which initiated a 120-day review and decision period. The site is located in Flathead County near the Flathead River, approximately 2 miles south of Creston and 8 miles east of Kalispell, Montana. The proposed game farm expansion would be operated by Martyn and Linda Boehm who reside adjacent to the site. The property proposed for the expansion would be leased. The existing game farm's quarantine and handling facility would also service the expansion area.

The existing game farm has been in operation for 14 years. Approximately 40 elk are currently contained in the existing game farm. The 7 acre expansion pasture is currently used for grass hay production and to winter horses. The purpose of the proposed expansion area is to provide additional grazing land for the existing elk herd which at maximum capacity could reach 60 animals. Under the Proposed Action, 20 animals would stock the expansion area.

Fence construction would comply with proposed changes to the FWP game farm rules, and would include 8-foot high, tightlock mesh game fence supported by wooden posts or 2%-inch steel pipes set 3 feet into the ground and spaced not more than 24 feet apart. Corners would consist of welded metal posts set in concrete with bracing. Gates would consist of an 8-foot high, welded metal frame with mechanical self-latches and chains with locks.

The existing game farm and proposed expansion area would be separated by a narrow alley. Opening the opposing gates on these two pastures would form a fenced corridor allowing the secure transfer of elk. The applicants would use the expansion area to breed, sell, and dispose of domestic elk in accordance with Montana game farm and disease control requirements stipulated in Montana statute and administrative rules. The game farm would provide meat, antiers, and trophy sales, as well as elk breeding stock. Elk shooting by the public would not be conducted at the site.

ALTERNATIVES

One alternative (No Action Alternative) was evaluated in the Draft EA. Under the No Action Alternative, FWP would not issue a license for the Fins and Feathers Game Farm Expansion as proposed. Therefore, no game farm animals would be placed on the proposed expansion area. Implementation of the No Action Alternative would not preclude other activities allowed under local, state and federal laws to take place on the proposed expansion site.

AFFECTED ENVIRONMENT

The proposed Fins and Feathers Game Farm Expansion consists of 7 acres of leased land located in Flathead County approximately 2 miles south of Creston and 8 miles east of Kalispell, Montana. The expansion site is currently used to grow hay during spring, summer, and early fall and to pasture horses during the late fall and winter. The existing 20 acre game farm and the owner's residence are located immediately north of the proposed expansion area. Adjoining properties are privately owned and are cultivated, used for hay production and grazing, or subdivided into small ranchettes. Approximately 10 neighboring residences are located within a 1-mile radius of the site and the nearest neighbor is located approximately 500 feet to the northeast.

The site is situated approximately 2,900 feet above mean sea level. The general topography of the proposed game farm expansion is dominated by the nearly level floodplain of the Flathead River. The expansion area is located between the river and a gently sloping, low relief hill. Farther to the east, the floodplain is bordered by hummocky topography and kettle lakes resulting from late Wisconsin Cordilleran glaciation. The glacial till, outwash, and lake deposits overlie Tertiary valley fill sediments. Soils in this area are identified as Swims Association soils. These soils generally consist of poorly drained, loamy to clayey soils that developed in stream alluvium under a vegetation cover that was mainly forest. Sandy loam and loamy sand occur in the subsurface horizons. These soils are subject to seasonal flooding and can remain wet through much of the spring and early summer.

The site is approximately 1,000 feet east of the Flathead River and 6 miles north of Flathead Lake. Mill Creek, located approximately 1,000 feet north of the site, flows east to join the Flathead River. Surface water runoff from the low hill east of the site flows westward across the proposed expansion pasture to the Flathead River. The site is sub-irrigated by waters from the Flathead River and Mill Creek. Approximately 70% of the site is located within the 100-year floodplain boundary and approximately 90% is located within the 500-year floodplain boundary. Because water levels in the Flathead River are regulated by Kerr Dam, flooding has not been a problem in the vicinity of the game farm. High spring groundwater levels produce good hay and pasture on soils in the game farm area.

A seasonal spring is located in the northeast corner of the proposed game farm expansion area. An approximately 1-foot wide ditch extends from the spring to the east. A similar spring is located nearby in the southwest corner of the existing game farm. Water from an artesian well in the holding area at the east end of the existing game farm supplies the existing herd and would be piped into the expansion pasture.

The area surrounding the proposed game farm expansion includes relatively pristine floodplain vegetation such as black cottonwood, willows, and cattail marshes. Higher sites are cultivated, used for hay production, or subdivided into small ranchetts. Scattered stands of ponderosa pine and Douglas fir occur on rocky sites not suitable for cultivation. The proposed game farm expansion plans to convert a 7 acre, sub-irrigated, tame-grass pasture to an elk enclosure. The tame grasses in the proposed expansion pasture include smooth brome, orchard grass, and Timothy. Dandelions and clover are also common.

Native vegetation at the site has been largely replaced with tame pasture grasses. A small row of hawthorn trees is located along the north end of the proposed expansion area. Estimated forage production at this site is about 2-4 tons per acre during most years. Total productivity of this pasture in an average year might be 21 tons (42,000 pounds) of grasses and forbs. Forage production at the existing game farm is enhanced by application of fertilizers.

Wildlife abounds in the vicinity of the proposed expansion due to the riparian corridor along the Flathead River, patches of conifer cover, and adjacent mountains. There are resident mule and white-tailed deer populations in this area and elk may occasionally pass through this area, especially during the rut. Moose would also be expected to occasionally pass through this area. This area is not critical deer or elk winter range, or an important big game migration corridor. A variety of waterfowl can be found along the Flathead River during all seasons, and a few pheasants use the riparian habitat as well.

Gray wolves, grizzly bears, and bald eagles, all Federally listed threatened wildlife, species have been observed in this area. However, only the bald eagle is observed in the area on a regular basis. The bald eagle is a year-long resident and also migratory through this area. One active bald eagle nest is located just downstream from the existing game farm along the Flathead River. The bald eagle is now scheduled for delisting. Use of this area by wolves and grizzly bears is on a sporadic basis. The peregrine falcon might pass through this area on a migratory basis. The bull trout is a Federally listed threatened species and occurs in limited numbers in Flathead Lake and Flathead River. There are no other Federally listed threatened or endangered species likely to occur in this area. Other large carnivores likely to pass through the game farm site include the black bear and mountain lion.

CONSEQUENCES OF THE PROPOSED ACTION

Impacts to Vegetation and Soil Resources

The Proposed Action plans to place up to 20 adult elk within the enclosure for a maximum stocking density of 0.35 acres per adult elk. It is estimated that the average adult elk consumes about 11 pounds of forage each day and that annual forage consumption would be about 4,015 pounds of forage per adult animal. The forage produced within the 7-acre enclosure (42,000 pounds) would not meet the year-long forage needs of 20 adult elk (80,300 pounds) and supplemental feed would be required from late fall to early spring. However, the purpose of the game farm expansion is to provide additional grazing land for the existing elk herd. The overall stocking density for the existing game farm and proposed expansion area at maximum capacity (60 animals) would decrease to 0.45 acres per adult elk. Total estimated annual forage production would be 120,000 pounds and total elk forage requirements would be 240,900 pounds of forage. Supplemental feed would be required year-round to maintain the condition of the elk, especially during the winter when the forage value of tame pasture grasses declines substantially. There would be no impacts to native vegetation because it has

already been lost from this site, although the row of hawthorns would probably be removed during fence construction.

An expansion of the current game farm onto the adjacent 7 acres of hay and pasture land should have only minor impacts to land and soil resources. The primary impact would be associated with effects from pasturing the elk on the expansion area during times when the soils are excessively wet or saturated. Because these soils do not drain well, the soil structure may be impacted, resulting in compaction and the potential for reduced productivity. These impacts can be mitigated by maintaining a reasonable stocking rate and managing use during periods of wet soil conditions.

Impacts to Water Resources

The Proposed Action of grazing up to 20 elk on 7 acres of dry hay pasture is likely to have a minor affect on water resources. Discharge water from the seasonal spring located in the northeast corner of the proposed expansion area could experience increased turbidity as the elk reduce vegetation cover adjacent to the spring and wallow in the water. Increased runoff and erosion could result from ground disturbances by the domestic elk, particularly if the stocking density reaches 20 elk. However, a vegetated buffer zone approximately 1,000 feet wide separates the expansion pasture from the Flathead River.

Domestic elk fecal matter and nutrient-enriched water could affect the quality of groundwater and surface water in the vicinity of the site, particularly during snowmelt or major precipitation events. Springs are common in this area, indicating that groundwater is very shallow, and wells are located on adjoining properties. Stocking the site with up to 20 elk on a year-round basis would likely have a similar affect to using the site as horse or cattle pasture.

Impacts to Wildlife Resources

When completed, wild deer and elk would be excluded from approximately 7 additional acres of pasture land. Collectively, a total of 27 acres would be fenced to exclude wild ungulates. This habitat is widely distributed within the Flathead Valley and the loss of an additional 7 acres of tame pasture land would not be a significant loss to wild big game species.

The Proposed Action is not expected to significantly change the diversity or abundance of nongame species living in this area. The change in timing of grazing and intensity of grazing on the proposed game farm expansion site would likely result in a decline of meadow vole habitat in the proposed expansion area, but overall this is not a significant decline.

The proposed game farm is not large enough to significantly influence any seasonal movement of wild deer or elk through this area. The daily movements of a few deer may be changed to a minor degree, but this would not be significant. Pheasants and other larger birds, such as falcons in pursuit of prey, might fly into the fence and be fatally injured. This would effect individuals but not populations.

The grizzly bear and gray wolf do pass through this area and each species has previously been observed in close proximity of the game farm. Although large carnivores may be attracted to the concentration of elk, this game farm has been operated for 14 years without an incident with bears, lions or wolves. This may be due in part to the fact that the existing game farm and proposed expansion area are bordered by a residence on the north and east sides. Should a large carnivore enter the game farm enclosure, it could be removed by non-lethal methods, but there is some risk of injury or death. This impact would effect individuals but not populations.

There is an undetermined potential of domestic elk carrying or becoming infected with a contagious wildlife disease or parasite such as tuberculosis, chronic wasting disease, or meningeal worm and then coming in contact (through-the-fence, nose-to-nose, nose-to-soil, or ingress/egress) with wild deer, elk, or other wildlife. Release of a contagious disease in the wild could severely impact native wildlife populations. It is also possible that disease and parasites carried by wild elk could be introduced to domestic elk. Ingress of wild elk, deer, and moose would likely result in the destruction of trespassing animals.

Community Impacts

The Proposed Action is consistent with the land use and values of the community in the vicinity of the proposed game farm. While the Proposed Action may increase the income level for the applicant and increase taxes paid to the county, it is not expected to significantly impact community income levels. There would be no public hunting allowed at the game farm site. The presence of the game farm would not restrict adjoining landowners from hunting and discharging firearms on their property.

Impacts to Public Services/Taxes/Utilities

Approval of a license would require supervision by FWP personnel including inspections. Implementation of the Proposed Action would provide the county with similar or slightly more tax revenue paid by the applicant if the proposed game farm area continued to be used for cattle grazing. The collected taxes would go into the county general fund and the local school district.

Impacts to Cultural Resources

Because no cultural resource inventory has been conducted in the area, there is a possibility that unknown or unrecorded cultural properties may be present at the site.

REQUIRED STIPULATION

 Report the ingress of any wild game animals or egress of domestic elk to FWP immediately. The report must contain the probable reason why or how ingress/egress was achieved.

This stipulation is imposed to mitigate potentially significant risk to wildlife posed by the proposed game farm. Risk to wildlife from contact between game farm animals and wild game is potentially significant due to the site being located in an area currently utilized by wild game.

The information provided by this stipulation would help both the applicant and FWP to address ingress and egress incidents and to minimize contact between wild and domestic animals. This stipulation, in addition to existing FWP fencing and wildlife protection requirements, would effectively reduce the risk to wildlife to below significant.

RECOMMENDED MITIGATION MEASURES

The following mitigation measures address additional impacts identified in the EA that are likely to result from the Proposed Action.

 Maintain a reasonable stocking rate within the game farm enclosure to maximize vegetative cover and minimize runoff, erosion, and potential changes in soil structure and potential impacts from fecal matter.

- Minimize stock traffic in ponded or saturated soil areas, if they develop.
- Use appropriate dust management activities, including spraying water on unpaved roads during the dry season, vegetating exposed ground where possible, protecting soil piles from wind erosion, and limiting ground disturbances to the area necessary to complete the job.
- Spread waste during cool weather or in the morning during warm, dry weather.
- Cover animal carcasses buried on the game farm with a minimum of 2 feet of soil; carcasses may also be sent to a licensed municipal landfill if approved by the landfill operator. Carcasses should not be disposed of in or adjacent to water bodies, roads, and ditches.
- Control surface water discharges from the game farm site, if they occur, by employing BMPs where runoff could exit the expansion pasture and enter the Flathead River. The BMPs may include earthen berms, vegetative buffer zones, straw bale dikes, or silt fences.
- Potential water quality impacts also could be minimized by disposing dead animals and excess fecal
 material at a site that is isolated from surface water and groundwater.
- Provide supplemental feed to the elk year-round to reduce the probability of overgrazing in the
 enclosure and to provide for the nutritional requirements of elk.
- Store hay, feed, and salt away from exterior fences, or in buildings.
- Feed game farm animals at the interior of the enclosure and not along the perimeter fence.
- Inspect the exterior game farm fence on a regular basis and immediately after events likely to damage
 the fence to insure its integrity with respect to trees, burrowing animals, predators and other game
 animals.
- Adjust fence requirements to include double fencing, electrification, or increased height, if fence integrity or ingress/egress becomes a problem.
- Stock a minimal number of bulls to minimize bugling during the mating season.
- Limit noisy construction activities to daylight hours and complete work as quickly as possible.
- Mitigate impacts to cultural resources by stopping work in the area of any observed archeological artifact. Report discovery of historical objects to:

Montana Historical Society
Historic Preservation Office
1410 8th Avenue; P.O. Box 201202
Helena, Montana 59620
(406) 444-7715.

If work stoppage in the area containing observed artifacts is not possible, record the location and position of each object, take pictures and preserve the artifact(s).

SUMMARY OF PUBLIC COMMENTS AND FWP RESPONSES

Public comments for the Fins and Feathers Game Farm Expansion Draft EA were accepted from June 12 through July 3, 1998. FWP received three comments during that time. Substantive comments and questions are reproduced with FWP responses. Public comments are considered substantive if they relate to inadequacies or inaccuracies in the analysis or methodologies used in the Draft EA, or identify new impacts or recommend reasonable new alternatives or mitigation measures; or involve disagreements or interpretations of impact significance. Comments which express personal preferences or opinions on the proposal rather than on the evaluation itself are included but are not specifically addressed.

Written Comment #1

Issue 1a:

Wild animals belong to the public. There is a long Montana tradition of public ownership of wildlife with its fair harvest open to all and participated in by many. Times are changing and the privatization of wildlife has evolved so quietly that it has just about gone unnoticed.

Response to Written Comment 1a:

Comment noted.

Issue 1b:

Montana's native wildlife co-evolved with the terrain, vegetation, water and climate. Escape of diseased, hybridized animals will disrupt the natural balance that support our native game animals.

Response to Written Comment 1b:

The applicant proposes to operate the Fins and Feathers game farm in compliance with Montana FWP and DoL regulations. Game farm operators must comply with fencing standards outlined in ARM 12.6.1503A and maintain fencing in a game-proof condition at all times to prevent animals from escaping from or entering the game farm premises. Prior to importation into Montana, game farm animals must be examined by an accredited veterinarian and test negative for tuberculosis, brucellosis, and other diseases and must test negative for red deer hybridization (ARM 12.6.1515).

Issue 1c:

Elk farming is a business so destructive in the Montana context, that it should not be permitted.

Response to Written Comment 1c:

Comment noted.

Issue 1d:

The sheer scale of the game farming business, the poor husbandry, the illegal traffic in game animals, the poor enforcement of regulations and the powerful political lobbies supporting it, will make law breaking and disease spread inevitable.

Response to Written Comment 1d:

The Proposed Action does not include large scale game farming, the use of poor animal husbandry, or illegal activities.

Issue 1e:

Recommend you not permit the expansion of this mis-named game farm.

Response to Written Comment 1e:

Comment noted.

Written Comment #2

Issue 2a:

We do not think game farms should be permitted in the first place.

Response to Written Comment 2a:

Comment noted.

Issue 2b:

Wild animals should not be fenced in.

Response to Written Comment 2b:

Comment noted.

Issue 2c:

We have the same concerns as most people regarding diseases with domesticated wild animals.

Response to Written Comment 2c:

Please refer to response given for Written Comment 1b.

Issue 2d:

The State is not able to properly check all the game farms. The fees do not cover the costs of proper supervision.

Response to Written Comment 2d:

The FWP will inspect the game farm on a periodic basis; however, resources are limited for conducting the inspections.

Issue 2e:

We have special concerns if antiers are harvested from these elk. The process is cruel and causes the animal much pain when the antiers are not allowed to drop naturally, but instead are cut from the animal's head.

Response to Written Comment 2e:

Comment noted.

The bigger issue is that public sentiment is against game farms. It does not make sense to allow new game farms to be established, which will only make it more difficult and expensive if and when a future state legislature decides to follow the citizens' wishes to not fence in wild animals.

Response to Written Comment 2f:

Comment noted.

Written Comment #3

Issue 3a:

We concur that impacts to cultural resources is unlikely.

Response to Written Comment #3a:

Comment noted.

CONCLUSION OF THE EA

The Draft EA, as modified herein, is approved as the Final EA. The preferred alternative is the Proposed Action, modified with one stipulation requiring the immediate reporting of ingress events. Based upon this review, it is determined that the Proposed Action with the required mitigation measure would not have a significant impact on the environment and that an EIS will not be required.

ANALYSIS OF IMPACT ON PRIVATE PROPERTY

Montana game farm statues (87-4-476, MCA) require that game farm licenses may be denied or issued with stipulations to prevent unacceptable threat of escape of captive game farm animals and to prevent a significant threat to the safety of the general public and surrounding landowners and by the shooting of game farm animals. MEPA requires FWP to identify and analyze environmental impacts of the Proposed Action and potential mitigation measures. MEPA, as revised by Senate Bill 231 of 1995, also requires agencies to evaluate the impact on private property of regulatory actions, such as denial of a permit or establishment of permit conditions (75-1-201, MCA). The Environmental Quality Council (EQC) has established procedural guidelines to implement these requirements. The analysis provided in the Draft EA was prepared in accordance with implementation guidance issued by the EQC.

In addition, the Private Property Assessment Act (2-10-101, MCA, et seq.) requires agencies to determine whether proposed actions by the State of Montana have "taking or damaging implications", such as to constitute a deprivation of private property in violation of the United States or Montana constitutions and, if so, to perform an impact assessment to determine the likelihood that a state or federal court would hold that the action is a taking or damaging, to review alternatives, and to determine the estimated cost of compensation. In accordance with the Act, the attorney general has prepared guidelines, including a checklist, to assist agencies in identifying and evaluating actions with taking or damaging implications.

The Draft EA contains FWP's completed checklist with respect to the stipulation recommended in the preferred alternative and has found that the preferred alternative does not have taking or damaging implications and that an impact assessment is not required.

PERSONS RESPONSIBLE FOR PREPARING THE EA AND RESPONSE TO COMMENTS

Fish, Wildlife & Parks

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Other

Craig Knowles, Wildlife Biologist, FaunaWest Wildlife Consultants